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PUC DOCKET NO. 48785

RECEIVED

JOINT APPLICATION OF ONCOR §  
ELECTRIC DELIVERY COMPANY LLC §  
AND AEP TEXAS INC. TO AMEND §  
THEIR CERTIFICATES OF §  
CONVENIENCE AND NECESSITY FOR §  
A PROPOSED DOUBLE-CIRCUIT 345- §  
kV TRANSMISSION LINE IN PECOS, §  
REEVES AND WARD COUNTIES, §  
TEXAS (SAND LAKE – SOLSTICE CCN) §

2018 NOV 7 PM 1:19  
BEFORE THE

PUBLIC UTILITY COMMISSION  
FILING CLERK

PUBLIC UTILITY COMMISSION

OF TEXAS

DIRECT TESTIMONY  
OF  
THOMAS W. REYNOLDS III

ON BEHALF OF  
APPLICANTS  
ONCOR ELECTRIC DELIVERY COMPANY LLC  
AND  
AEP TEXAS INC.

NOVEMBER 2018

**PUC DOCKET NO. 48785**  
**DIRECT TESTIMONY OF THOMAS W. REYNOLDS III**

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**EXHIBITS**

**Exhibit TWR-1: 16 TAC § 22.52**

**Exhibit TWR-2: PURA § 37.056**

**Exhibit TWR-3: 16 TAC § 25.101**

## **I. INTRODUCTION**

1   **Q.   PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2   A.   My name is Thomas W. Reynolds III. My business address is 501 South Boston,  
3       Tulsa, Oklahoma 74103.

4   **Q.   BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

5   A.   I am employed by American Electric Power Service Company (AEPSC), a wholly-  
6       owned subsidiary of American Electric Power Company, Inc., as Senior Project  
7       Manager in the Transmission Services Department for ERCOT. AEPSC provides  
8       engineering, construction, and project management services to AEP Texas Inc. (AEP  
9       Texas).

10  **Q.   PLEASE DESCRIBE YOUR EDUCATIONAL AND PROFESSIONAL**  
11  **QUALIFICATIONS AND BUSINESS EXPERIENCE.**

12  A.   I received a Bachelor of Science Degree in Electrical Engineering from Oklahoma  
13       State University in 1982 and a Master of Business Administration from the University  
14       of Phoenix in 2001. I have also obtained my Project Management Professional  
15       Certification. I have over 35 years of energy industry experience in managing  
16       customer relationships, projects, technologies and employees, including 18 years in  
17       the electric utility industry.

18  **Q.   PLEASE DESCRIBE YOUR JOB RESPONSIBILITIES, PARTICULARLY AS**  
19  **THEY APPLY TO THIS PROJECT.**

20  A.   I am the project manager for AEP Texas for the transmission project presented in this  
21       Docket No. 48785: *Joint Application of Oncor Electric Delivery Company LLC and*  
22       *AEP Texas Inc. to Amend Their Certificates of Convenience and Necessity for a*  
23       *Proposed Double-Circuit 345-kV Transmission Line in Pecos, Reeves and Ward*  
24       *Counties, Texas (Sand Lake –Solstice CCN)* (Application). My job responsibilities  
25       include overseeing and managing transmission system projects from inception to  
26       completion. These responsibilities involve receiving the capital project proposal from  
27       AEPSC's transmission planning organization for review and final scope development  
28       through project funding. I coordinate a project team of planners, design engineers,

1 case managers, environmental specialists, construction personnel, right-of-way  
2 agents, and contractors to see the project through engineering, procurement,  
3 construction, energization, and project closeout. My job responsibilities also include  
4 overseeing project budgets and schedules.

5 When a Certificate of Convenience and Necessity (CCN) application is  
6 required, as in this docket, my job responsibilities include coordinating development  
7 and filing of the Application. In this specific Application part of my assignment is to  
8 coordinate the development of the Application and the filing/processing of the joint  
9 Application between AEP Texas and Oncor Electric Delivery Company LLC (Oncor)  
10 (jointly, Applicants) that will submitted to the Public Utility Commission of Texas  
11 (Commission or PUC) and then later the coordination of construction activities as  
12 necessary with Oncor for this new transmission line project.

13 **Q. HAVE YOU PRESENTED TESTIMONY TO THE COMMISSION OR ANY**  
14 **OTHER REGULATORY BODY BEFORE?**

15 A. No.

16 **Q. HAVE YOU REVIEWED THE ROUTE EVALUATION, ROUTE**  
17 **SELECTION, PROJECT COST ESTIMATES, CONDUCTOR AND**  
18 **STRUCTURE SELECTION, RIGHT OF WAY WIDTHS, PUBLIC NOTICE**  
19 **PROVISIONS, AND PLANS FOR ENGINEERING DESIGN AND**  
20 **COMPLIANCE DISCUSSED BY OTHER WITNESSES FOR THE**  
21 **APPLICANTS?**

22 A. Yes, I have reviewed the Applicants witnesses' testimony on those issues and agree  
23 with their statements and conclusions.

## **II. PURPOSE OF TESTIMONY**

24 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

25 A. The purpose of my testimony is to discuss specific aspects of AEP Texas' role in the  
26 proposed Sand Lake to Solstice 345-kV double-circuit transmission line through  
27 Pecos, Reeves and Ward Counties, Texas (Project) to be constructed by AEP Texas  
28 and Oncor, jointly referred to as the Applicants. In my testimony, I will address

1 certain aspects of the Application including: (i) the description of AEP Texas and its  
2 involvement and financing of its portion of the Project; (ii) AEP Texas' involvement  
3 in the Application preparation; (iii) AEP Texas' construction and right-of-way  
4 (ROW) acquisition schedule, and (iv) AEP Texas' permitting for the Project once  
5 approved by the Commission. The Application is publicly available at the  
6 Commission and will be offered into evidence by the Applicants as an exhibit in this  
7 proceeding.

8 **Q. WHAT PORTIONS OF THE APPLICATION DO YOU SPONSOR?**

9 A. I am jointly sponsoring the responses to Questions No. 1 through 13, 17 through 20,  
10 25, 29, and 30 and Application Attachments 1 (Section 1, Figure 1-3), 2, 12, 13, 14,  
11 15, 16, 17, 18, and 19.

12 **Q. WERE YOUR TESTIMONY AND THE INFORMATION YOU ARE**  
13 **SPONSORING PREPARED BY YOU OR BY KNOWLEDGEABLE PERSONS**  
14 **UPON WHOSE EXPERTISE, JUDGMENT AND OPINIONS YOU RELY IN**  
15 **PERFORMING YOUR DUTIES?**

16 A. Yes.

17 **Q. IS THE INFORMATION CONTAINED IN YOUR TESTIMONY AND THAT**  
18 **YOU ARE SPONSORING TRUE AND CORRECT TO THE BEST OF YOUR**  
19 **KNOWLEDGE AND BELIEF?**

20 A. Yes.

**III. PROJECT DESCRIPTION**

21 **Q. PLEASE DESCRIBE THE PROJECT.**

22 A. The Project is located in Pecos, Reeves and Ward Counties, Texas. The two endpoints  
23 for the Project are Oncor's Sand Lake Switch, which will be located approximately 6  
24 miles northeast of the city of Pecos on the northwest side of Farm-to-Market Road  
25 ("FM") 3398 in Ward County, Texas, and the expansion of the AEP Texas Solstice  
26 Switch Station located approximately 29 miles west of Fort Stockton on the north  
27 side of Interstate Highway 10 near Hovey Road. The AEP Texas Solstice Switch

1 Station is currently a 138-kV station and will be expanded to a 345-kV station yard  
2 adjacent to the 138-kV station for the termination of two new 345-kV circuits from  
3 the LCRA TSC Bakersfield Station, which are the subject of a separate CCN  
4 application, and the termination of two new 345-kV circuits from Oncor's Sand Lake  
5 Switch, which are part of this CCN application. The new Solstice 345-kV station  
6 yard, which is addressed in a separate CCN application for the AEP Texas/LCRA  
7 TSC Bakersfield to Solstice line, will be interconnected to the existing 138-kV station  
8 through two 600 MVA 345/138-kV autotransformers and will include a new 50 Mvar  
9 reactor to be located in the 345-kV station yard. A second 50 Mvar reactor and  
10 associated termination and operation equipment will be added for voltage control to  
11 accommodate the new transmission line being added from the Oncor Sand Lake  
12 Switch station as part of this CCN application.

13 Oncor and AEP Texas will determine an appropriate location to divide  
14 ownership of the Project at or near the midpoint. Oncor will construct, own, operate,  
15 and maintain the northern half of the transmission line connecting to Oncor's Sand  
16 Lake Switch (including all necessary construction within the Sand Lake Switch to  
17 terminate and operate the new transmission line) and AEP Texas will construct, own,  
18 operate, and maintain the southern half of the transmission line connecting to the  
19 expanded AEP Texas Solstice Switch Station (including all necessary construction to  
20 expand the station for the connection and operation of the new 345-kV transmission  
21 line circuits and the 50 Mvar reactor). The specific change in ownership will be  
22 determined and agreed to as part of finalizing the route selected by the Commission.  
23 Applicants' witness Mr. Wilson P. Peppard also addresses project ownership division  
24 in his direct testimony. The project will be approximately 44.5 to 58.7 miles in  
25 length, depending on which alternative route of the 29 alternative routes filed with the  
26 Commission is approved.

27 **Q. WHAT IS THE CONDUCTOR SIZE AND RATING BEING USED BY AEP**  
28 **TEXAS FOR THIS PROJECT?**

29 A. AEP Texas will be using 2-1590 ACSS with a continuous summer static current  
30 rating of 6091 amps and continuous summer static line capacity at operating voltage

1 of 3640 MVA. This conductor has been the standard conductor used by AEPSC for  
2 the Competitive Renewable Energy Zone 345 kV transmission projects constructed  
3 for Electric Transmission Texas, LLC. This type of conductor was selected because  
4 of its inventory cost benefits and because it provides the necessary power transfer  
5 capacity for this Project.

6 **Q. WHAT STRUCTURE TYPE HAS AEP TEXAS SELECTED FOR THIS**  
7 **PROJECT?**

8 A. After evaluating numerous factors relating to the study area, including but not limited  
9 to span length between structures, construction time frame, comparable cost, flat  
10 terrain, and impacts to affected landowners, AEP Texas determined that the lattice  
11 structure type would be a cost effective choice for this Project.

12 **Q. WHAT ROW WIDTH DOES AEP TEXAS PLAN TO USE FOR THIS**  
13 **PROJECT?**

14 A. AEP Texas plans to use a ROW width of 150 to 160 feet depending on the width  
15 necessary for safe operation of the new transmission line.

16 **Q. IS THE PROJECT ONE OF SEVERAL RELATED PROJECTS FOR WHICH**  
17 **CCN APPLICATIONS ARE BEING FILED SIMULTANEOUSLY BECAUSE**  
18 **THEY HAVE A COMMON ENDPOINT?**

19 A. Yes. AEP Texas, LCRA TSC, and Oncor have simultaneously filed two CCN  
20 applications: 1) the Project in this case, and 2) the joint AEP Texas/LCRA TSC  
21 Bakersfield to Solstice 345-kV double-circuit transmission line in Docket No. 48787.  
22 Because these two projects serve a common need and share a common endpoint at  
23 Solstice Switch Station, AEP Texas, LCRA TSC, and Oncor are requesting  
24 consolidation of the two CCN proceedings.

#### **IV. DESCRIPTION OF AEP TEXAS**

25 **Q. PLEASE DESCRIBE AEP TEXAS.**

26 A. AEP Texas is connected to and serves more than one million electric consumers in  
27 the deregulated Texas marketplace. As an energy delivery wires company, AEP



1 Texas delivers electricity safely and reliably to homes, businesses, and industry  
2 across its nearly 100,000 square mile service territory in south and west Texas. AEP  
3 Texas uses the services of AEP Transmission, which is a division of AEPSC, to build  
4 and operate its transmission network. AEP Transmission builds and operates  
5 transmission infrastructure for the AEP Operating Companies that distribute  
6 electricity to businesses and homes. AEP Transmission now operates more than  
7 40,000 miles of transmission network. AEP Texas is the certificated co-applicant in  
8 this proceeding and AEP Transmission will construct, operate, and maintain the  
9 transmission facilities associated with AEP Texas' portion of the Project following  
10 approval by the Commission.

## V. PROJECT FINANCING

11 **Q. HOW WILL AEP TEXAS FINANCE THE PROJECT?**

12 A. AEP Texas' 50 percent share of the Project will be financed from short-term  
13 borrowings and owner equity.

## VI. PROJECT SCHEDULE

14 **Q. WHAT IS AEP TEXAS' SCHEDULE FOR THE PROJECT?**

15 A. The following table indicates the projected dates for certain Project milestones:

<b>Estimated Dates of:</b>	<b>Start</b>	<b>Completion</b>
Right-of-way Acquisition	May 2019	October 2020
Engineering and Design	May 2019	December 2019
Material and Equipment Procurement	June 2019	February 2020
Construction of Facilities	January 2020	December 2020
Energize Facilities	-----	December 2020

## **VII. PUBLIC MEETING**

1   **Q.   PLEASE DESCRIBE AEP TEXAS' INVOLVEMENT IN THE PUBLIC**  
2   **PARTICIPATION MEETING THAT WAS HELD FOR THE PROJECT.**

3   A.   The Applicants, with the assistance of Halff Associates (Halff), held an open-house  
4       meeting to solicit public input about the proposed Project. Public involvement  
5       contributed to the evaluation of issues and concerns and to the selection of route  
6       segments for the Project. Brenda Perkins, on behalf of the Applicants, will provide  
7       greater detail in her direct testimony concerning how the Applicants obtained input  
8       from the public prior to the filing of the Application and the Applicants' compliance  
9       with 16 TAC § 22.52(a)(4) (see Exhibit TWR-1).

## **VIII. PURA AND PUC RULES ROUTING CRITERIA**

10   **Q.   DO THE APPLICATION AND THE ROUTES THEREIN COMPLY WITH**  
11   **THE REQUIREMENTS OF PURA AND THE PUC'S SUBSTANTIVE**  
12   **RULES?**

13   A.   Yes. AEP Texas has been involved extensively in the development of the Application  
14       and the alternative routes presented in the Application. The direct testimony of  
15       Brenda Perkins further discusses the specific details regarding regulatory compliance  
16       and the determination of the routes filed by Applicants in the Application.

17   **Q.   WHAT ROUTE DID THE APPLICANTS SELECT AS THE ROUTE THEY**  
18   **BELIEVE BEST ADDRESSES THE REQUIREMENTS OF PURA AND THE**  
19   **PUC'S SUBSTANTIVE RULES FOR THE PROJECT?**

20   A.   The Applicants considered all of the certification criteria in PURA and the PUC  
21       Substantive Rules, input from the public, the data from Halff regarding the project,  
22       engineering and construction constraints, and the estimated cost for the alternative  
23       routes. In addition to considering Halff's environmental and land use evaluation of  
24       the alternative routes, the Applicants also evaluated each route from a cost and  
25       engineering design and construction perspective. As a result of this evaluation, AEP  
26       Texas and Oncor identified Route 320 as the route that the Applicants believe best  
27       addresses the requirements of PURA (see Exhibit TWR-2) and the PUC's Substantive

**AFFIDAVIT OF THOMAS W. REYNOLDS III**

**STATE OF OKLAHOMA**

§

§

**COUNTY OF TULSA**

§

Before me, the undersigned authority, Thomas W. Reynolds III, being first duly sworn, deposes and states:

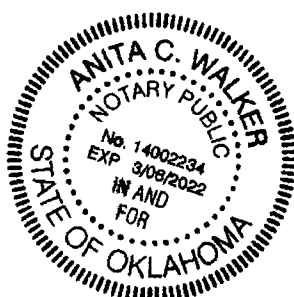
"My name is Thomas W. Reynolds III. I am a Senior Project Manager (Project Manager) employed by American Electric Power Company (AEPSC) in the Transmission Services Department for ERCOT, which provides engineering, construction, and project management services to AEP Texas Inc. (AEP Texas). I am over the age of twenty-one, and am competent to make the following affidavit. On behalf of AEP Texas and in my capacity as the AEPSC Project Manager representing AEP Texas on the Sand Lake to Solstice 345-kV Transmission Line Project, I am qualified and authorized to file and verify such application on behalf of AEP Texas, am personally familiar with the maps and exhibits filed with this application, and have complied with all the requirements contained in the application; and, that all statements made and matters set forth therein and all exhibits attached thereto by AEP Texas are true and correct. I further state that the application is made in good faith, that notice of its filing is being provided in accordance with 16 TAC §25.174, and that this application does not duplicate any filing presently before the Commission."



Thomas W. Reynolds III  
Senior Project Manager  
AEPSC

SUBSCRIBED AND SWORN TO BEFORE ME, a Notary Public in and for the State of

Oklahoma, this 1<sup>st</sup> day of Nov, 2018.



Notary Public State of Oklahoma

My Commission Expires: March 6, 2022

**Subchapter D. NOTICE.****§22.52. Notice in Licensing Proceedings.**

- (a) **Notice in electric licensing proceedings.** In all electric licensing proceedings except minor boundary changes, the applicant shall give notice in the following ways:
- (1) Applicant shall publish notice once of the applicant's intent to secure a certificate of convenience and necessity in a newspaper having general circulation in the county or counties where a certificate of convenience and necessity is being requested, no later than the week after the application is filed with the commission. This notice shall identify the commission's docket number and the style assigned to the case by Central Records. In electric transmission line cases, the applicant shall obtain the docket number and style no earlier than 25 days prior to making the application by filing a preliminary pleading requesting a docket assignment. The notice shall identify in general terms the type of facility if applicable, and the estimated expense associated with the project. The notice shall describe all routes without designating a preferred route or otherwise suggesting that a particular route is more or less likely to be selected than one of the other routes.
    - (A) The notice shall include all the information required by the standard format established by the commission for published notice in electric licensing proceedings. The notice shall state the date established for the deadline for intervention in the proceeding (date 45 days after the date the formal application was filed with the commission; or date 30 days after the date the formal application was filed with the commission for an application for certificate of convenience and necessity filed under PURA §39.203(e)) and that a letter requesting intervention should be received by the commission by that date.
    - (B) The notice shall describe in clear, precise language the geographic area for which the certificate is being requested and the location of all alternative routes of the proposed facility. This description shall refer to area landmarks, including but not limited to geographic landmarks, municipal and county boundary lines, streets, roads, highways, railroad tracks, and any other readily identifiable points of reference, unless no such references exist for the geographic area. In addition, the notice shall include a map that identifies all of the alternative locations of the proposed routes and all major roads, transmission lines, and other features of significance to the areas that are used in the utility's written notice description.
    - (C) The notice shall state a location where a detailed routing map may be reviewed. The map shall clearly and conspicuously illustrate the location of the area for which the certificate is being requested including all the alternative locations of the proposed routes, and shall reflect area landmarks, including but not limited to geographic landmarks, municipal and county boundary lines, streets, roads, highways, railroad tracks, and any other readily identifiable points of reference, unless no such references exist for the geographic area.
    - (D) Proof of publication of notice shall be in the form of a publisher's affidavit which shall specify the newspaper(s) in which the notice was published, the county or counties in which the newspaper(s) is or are of general circulation, the dates upon which the notice was published, and a copy of the notice as published. Proof of publication shall be submitted to the commission as soon as available.
    - (E) The applicant shall provide a copy of each environmental impact study and/or assessment for the project to the Texas Parks and Wildlife Department (TPWD) for its review within seven days of filing the application. Proof of submission of the information to TPWD shall be provided in the form of an affidavit to the commission, which shall specify the date the information was mailed or otherwise provided to TPWD, and shall provide a copy of the cover letter or other documentation that confirms that the information was provided to TPWD.
  - (2) Applicant shall, upon filing an application, also mail notice of its application to municipalities within five miles of the requested territory or facility, neighboring utilities providing the same utility service within five miles of the requested territory or facility, the county government(s)

**Subchapter D. NOTICE.**

of all counties in which any portion of the proposed facility or requested territory is located, and the Department of Defense Siting Clearinghouse. In addition, the applicant shall, upon filing the application, serve the notice on the Office of Public Utility Counsel using a method specified in §22.74(b) of this title (relating to Service of Pleadings and Documents). The notice shall contain the information as set out in paragraph (1) of this subsection and a map as described in paragraph (1)(C) of this subsection. An affidavit attesting to the provision of notice to municipalities, utilities, counties, the Department of Defense Siting Clearinghouse, and the Office of Public Utility Counsel shall specify the dates of the provision of notice and the identity of the individual municipalities, utilities, and counties to which such notice was provided. Before final approval of any modification in the applicant's proposed route(s), applicant shall provide notice as required under this paragraph to municipalities, utilities, and counties affected by the modification which have not previously received notice. The notice of modification shall state such entities will have 20 days to intervene.

- (3) Applicant shall, on the date it files an application, mail notice of its application to the owners of land, as stated on the current county tax roll(s), who would be directly affected by the requested certificate. For purposes of this paragraph, land is directly affected if an easement or other property interest would be obtained over all or any portion of it, or if it contains a habitable structure that would be within 300 feet of the centerline of a transmission project of 230kV or less, or within 500 feet of the centerline of a transmission project greater than 230kV.
  - (A) The notice must contain all information required in paragraph (1) of this subsection and shall include all the information required by the standard notice letter to landowners prescribed by the commission. The commission's docket number pertaining to the application must be stated in all notices. The notice must also include a copy of the "Landowners and Transmission Line Cases at the PUC" brochure prescribed by the commission.
  - (B) The notice must include a map as described in paragraph (1)(C) of this subsection.
  - (C) Before final approval of any modification in the applicant's proposed route(s), applicant shall provide notice as required under subparagraphs (A) and (B) of this paragraph to all directly affected landowners who have not already received such notice.
  - (D) Proof of notice may be established by an affidavit affirming that the applicant sent notice by first-class mail to each of the persons listed as an owner of directly affected land on the current county tax roll(s). The proof of notice shall include a list of all landowners to whom notice was sent and a statement of whether any formal contact related to the proceeding between the utility and the landowner other than the notice has occurred. This proof of notice shall be filed with the commission no later than 20 days after the filing of the application.
  - (E) Upon the filing of proof of notice as described in subparagraph (D) of this paragraph, the lack of actual notice to any individual landowner will not in and of itself support a finding that the requirements of this paragraph have not been satisfied. If, however, the utility finds that an owner of directly affected land has not received notice, it shall immediately advise the commission by written pleading and shall provide notice to such landowner(s) by priority mail, with delivery confirmation, in the same form described in subparagraphs (A) and (B) of this paragraph, except that the notice shall state that the person has fifteen days from the date of delivery to intervene. The utility shall immediately file a supplemental affidavit of notice with the commission.
- (4) The utility shall hold at least one public meeting prior to the filing of its licensing application if 25 or more persons would be entitled to receive direct mail notice of the application. Direct mail notice of the public meeting shall be sent by first-class mail to each of the persons listed on the current county tax rolls as an owner of land within 300 feet of the centerline of a transmission project of 230kV or less, or within 500 feet of the centerline of a transmission project greater than 230kV. The utility shall also provide written notice to the Department of Defense Siting Clearinghouse of the public meeting. In the notice for the public meeting, at the public meeting, and in other communications with a potentially affected person, the utility

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shall not describe routes as preferred routes or otherwise suggest that a particular route is more or less likely to be selected than one of the other routes. In the event that no public meeting is held, the utility shall provide written notice to the Department of Defense Siting Clearinghouse of the planned filing of an application prior to completion of the routing study.

- (5) Failure to provide notice in accordance with this section shall be cause for day-for-day extension of deadlines for intervention and for commission action on the application.
  - (6) Upon entry of a final, appealable order by the commission approving an application, the utility shall provide notice to all owners of land who previously received direct notice. Proof of notice under this subsection shall be provided to the commission's staff.
    - (A) If the owner's land is directly affected by the approved route, the notice shall consist of a copy of the final order.
    - (B) If the owner's land is not directly affected by the approved route, the notice shall consist of a brief statement that the land is no longer the subject of a pending proceeding and will not be directly affected by the facility.
  - (7) All notices of an applicant's intent to secure a certificate of convenience and necessity whether provided by publication or direct mail shall include the following language: "All routes and route segments included in this notice are available for selection and approval by the Public Utility Commission of Texas."
- (b) **Notice in telephone licensing proceedings.** In all telephone licensing proceedings, except minor boundary changes, applications for a certificate of operating authority, or applications for a service provider certificate of operating authority, the applicant shall give notice in the following ways:
- (1) Applicants shall publish in a newspaper having general circulation in the county or counties where a certificate of convenience and necessity is being requested, once each week for two consecutive weeks, beginning the week after the application is filed, notice of the applicant's intent to secure a certificate of convenience and necessity. This notice shall identify in general terms the types of facilities, if applicable, the area for which the certificate is being requested, and the estimated expense associated with the project. Whenever possible, the notice should state the established intervention deadline. The notice shall also include the following statement: "Persons with questions about this project should contact (name of utility contact) at (utility contact telephone number). Persons who wish to intervene in the proceeding or comment upon action sought, should contact the Public Utility Commission, P.O. Box 13326, Austin, Texas 78711-3326, or call the Public Utility Commission at (512) 936-7120 or (888) 782-8477. Hearing- and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. The deadline for intervention in the proceeding is (date 70 days after the date the application was filed with the commission) and you must send a letter requesting intervention to the commission which is received by that date." Proof of publication of notice shall be in the form of a publisher's affidavit, which shall specify the newspaper or newspapers in which the notice was published; the county or counties in which the newspaper or newspapers is or are of general circulation; the dates upon which the notice was published and a copy of the notice as published. Proof of publication shall be submitted to the commission as soon as available.
  - (2) Applicant shall also mail notice of its application, which shall contain the information as set out in paragraph (1) of this subsection, to cities and to neighboring utilities providing the same service within five miles of the requested territory or facility. Applicant shall also provide notice to the county government of all counties in which any portion of the proposed facility or territory is located. The notice provided to county governments shall be identical to that provided to cities and to neighboring utilities. An affidavit attesting to the provision of notice to counties shall specify the dates of the provision of notice and the identity of the individual counties to which such notice was provided.
  - (3) Failure to provide notice in accordance with this section shall be cause for day-for-day extension of deadlines for intervention.

(V.A.C.S. art. 1446c-0, sec. 2.258.) (Amended by Acts 2009, 81st Leg., R.S., ch. 1170 (HB 3309), § 4 (amended subsecs. (a), (b), and (c)).)

**Sec. 37.056. GRANT OR DENIAL OF CERTIFICATE.**

(a) The commission may approve an application and grant a certificate only if the commission finds that the certificate is necessary for the service, accommodation, convenience, or safety of the public.

(b) The commission may:

- (1) grant the certificate as requested;
- (2) grant the certificate for the construction of a portion of the requested system, facility, or extension or the partial exercise of the requested right or privilege; or
- (3) refuse to grant the certificate.

(c) The commission shall grant each certificate on a nondiscriminatory basis after considering:

- (1) the adequacy of existing service;
- (2) the need for additional service;
- (3) the effect of granting the certificate on the recipient of the certificate and any electric utility serving the proximate area; and
- (4) other factors, such as:
  - (A) community values;
  - (B) recreational and park areas;
  - (C) historical and aesthetic values;
  - (D) environmental integrity;
  - (E) the probable improvement of service or lowering of cost to consumers in the area if the certificate is granted; and
  - (F) to the extent applicable, the effect of granting the certificate on the ability of this state to meet the goal established by Section 39.904(a) of this title.

(d) The commission by rule shall establish criteria, in addition to the criteria described by Subsection (c), for granting a certificate for a transmission project that serves the ERCOT power region, that is not necessary to meet state or federal reliability standards, and that does not serve a competitive renewable energy zone. The criteria must include a comparison of the estimated cost of the transmission project and the estimated cost savings that may result from the transmission project. The commission shall include with its decision on an application for a certificate to which this subsection applies findings on the criteria.

(V.A.C.S. art. 1446c-0, secs. 2.255(b), (c).) (Amended by Acts 2003, 78th Leg., R.S., ch. 295 (HB 2548), § 2 (added subd. (c)(4)(F)); Acts 2011, 82nd Leg., R.S., ch. 949 (HB 971), § 2(a) (added subsec. (d)).)

**Sec. 37.057. DEADLINE FOR APPLICATION FOR NEW TRANSMISSION FACILITY.**

The commission may grant a certificate for a new transmission facility to a qualified applicant that meets the requirements of this subchapter. The commission must approve or deny an application for a certificate for a new transmission facility not later than the first anniversary of the date the application is filed. If the commission does not approve or deny the application on or before that date, a party may seek a writ of mandamus in a district court of Travis County to compel the commission to decide on the application.

(V.A.C.S. art. 1446c-0, sec. 2.255(e).) (Amended by Acts 2009, 81st Leg., R.S., ch. 1170 (HB 3309), § 4).

**Sec. 37.058. CERTIFICATE AND DETERMINATION ISSUED TO CERTAIN NON-ERCOT UTILITIES FOR GENERATING FACILITY.**

(a) This section applies only to an electric utility that operates solely outside of ERCOT.

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#### §25.101. Certification Criteria.

- (a) **Definitions.** The following words and terms, when used in this section, shall have the following meanings unless the context clearly indicates otherwise:
- (1) **Construction and/or extension** -- Shall not include the purchase or condemnation of real property for use as facility sites or right-of-way. Acquisition of right-of-way shall not be deemed to entitle an electric utility to the grant of a certificate of convenience and necessity without showing that the construction and/or extension is necessary for the service, accommodation, convenience, or safety of the public.
  - (2) **Generating unit** -- Any electric generating facility. This section does not apply to any generating unit that is less than ten megawatts and is built for experimental purposes only.
  - (3) **Habitable structures** -- Structures normally inhabited by humans or intended to be inhabited by humans on a daily or regular basis. Habitable structures include, but are not limited to: single-family and multi-family dwellings and related structures, mobile homes, apartment buildings, commercial structures, industrial structures, business structures, churches, hospitals, nursing homes, and schools.
  - (4) **Municipal Power Agency (MPA)** -- Agency or group created under Texas Utilities Code, Chapter 163 – Joint Powers Agencies.
  - (5) **Municipal Public Entity (MPE)** -- A municipally owned utility (MOU) or a municipal power agency.
  - (6) **Prudent avoidance** -- The limiting of exposures to electric and magnetic fields that can be avoided with reasonable investments of money and effort.
  - (7) **Tie line** -- A facility to be interconnected to the Electric Reliability Council of Texas (ERCOT) transmission grid by a person, including an electric utility or MPE, that would enable additional power to be imported into or exported out of the ERCOT power grid.
- (b) **Certificates of convenience and necessity for new service areas and facilities.** Except for certificates granted under subsection (e) of this section, the commission may grant an application and issue a certificate only if it finds that the certificate is necessary for the service, accommodation, convenience, or safety of the public, and complies with the statutory requirements in the Public Utility Regulatory Act (PURA) §37.056. The commission may issue a certificate as applied for, or refuse to issue it, or issue it for the construction of a portion of the contemplated system or facility or extension thereof, or for the partial exercise only of the right or privilege. The commission shall render a decision approving or denying an application for a certificate within one year of the date of filing of a complete application for such a certificate, unless good cause is shown for exceeding that period. A certificate, or certificate amendment, is required for the following:
- (1) **Change in service area.** Any certificate granted under this section shall not be construed to vest exclusive service or property rights in and to the area certificated.
    - (A) **Uncontested applications:** An application for a certificate under this paragraph shall be approved administratively within 80 days from the date of filing a complete application if:
      - (i) no motion to intervene has been filed or the application is uncontested;
      - (ii) all owners of land that is affected by the change in service area and all customers in the service area being changed have been given direct mail notice of the application; and
      - (iii) commission staff has determined that the application is complete and meets all applicable statutory criteria and filing requirements, including, but not limited to, the provision of proper notice of the application.
    - (B) **Minor boundary changes or service area exceptions:** Applications for minor boundary changes or service area exceptions shall be approved administratively within 45 days of the filing of the application provided that:



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- (i) every utility whose certificated service area is affected agrees to the change;
  - (ii) all customers within the affected area have given prior consent; and
  - (iii) commission staff has determined that the application is complete and meets all applicable statutory criteria and filing requirements, including, but not limited to, the provision of proper notice of the application.
- (2) **Generation facility.**
  - (A) In a proceeding involving the purchase of an existing electric generating facility by an electric utility that operates solely outside of ERCOT, the commission shall issue a final order on a certificate for the facility not later than the 181<sup>st</sup> day after the date a request for the certificate is filed with the commission under PURA §37.058(b).
  - (B) In a proceeding involving a newly constructed generating facility by an electric utility that operates solely outside of ERCOT, the commission shall issue a final order on a certificate for the facility not later than the 366<sup>th</sup> day after the date a request for the certificate is filed with the commission under PURA §37.058(b).
- (3) **Electric transmission line.** All new electric transmission lines shall be reported to the commission in accordance with §25.83 of this title (relating to Transmission Construction Reports). This reporting requirement is also applicable to new electric transmission lines to be constructed by an MPE seeking to directly or indirectly construct, install, or extend a transmission facility outside of its applicable boundaries. For an MOU, the applicable boundaries are the municipal boundaries of the municipality that owns the MOU. For an MPA, the applicable boundaries are the municipal boundaries of the public entities participating in the MPA.
  - (A) Need:
    - (i) Except as stated below, the following must be met for a transmission line in the ERCOT power region. The applicant must present an economic cost-benefit study that includes an analysis that shows that the levelized ERCOT-wide annual production cost savings attributable to the proposed project are equal to or greater than the first-year annual revenue requirement of the proposed project of which the transmission line is a part. Indirect costs and benefits to the transmission system may be included in the cost-benefit study. The commission shall give great weight to such a study if it is conducted by the ERCOT independent system operator. This requirement also does not apply to an application for a transmission line that is necessary to meet state or federal reliability standards, including: a transmission line needed to interconnect a transmission service customer or end-use customer; or needed due to the requirements of any federal, state, county, or municipal government body or agency for purposes including, but not limited to, highway transportation, airport construction, public safety, or air or water quality.
    - (ii) For a transmission line not addressed by clause (i) of this subparagraph, the commission shall consider among other factors, the needs of the interconnected transmission systems to support a reliable and adequate network and to facilitate robust wholesale competition. The commission shall give great weight to:
      - (I) the recommendation of an organization that meets the requirement of PURA §39.151; and/or
      - (II) written documentation that the transmission line is needed to interconnect a transmission service customer or an end-use customer.

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- (B) **Routing:** An application for a new transmission line shall address the criteria in PURA §37.056(c) and considering those criteria, engineering constraints, and costs, the line shall be routed to the extent reasonable to moderate the impact on the affected community and landowners unless grid reliability and security dictate otherwise. The following factors shall be considered in the selection of the utility's alternative routes unless a route is agreed to by the utility, the landowners whose property is crossed by the proposed line, and owners of land that contains a habitable structure within 300 feet of the centerline of a transmission project of 230 kV or less, or within 500 feet of the centerline of a transmission project greater than 230 kV, and otherwise conforms to the criteria in PURA §37.056(c):
  - (i) whether the routes parallel or utilize existing compatible rights-of-way for electric facilities, including the use of vacant positions on existing multiple-circuit transmission lines;
  - (ii) whether the routes parallel or utilize other existing compatible rights-of-way, including roads, highways, railroads, or telephone utility rights-of-way;
  - (iii) whether the routes parallel property lines or other natural or cultural features; and
  - (iv) whether the routes conform with the policy of prudent avoidance.
- (C) **Uncontested transmission lines:** An application for a certificate for a transmission line shall be approved administratively within 80 days from the date of filing a complete application if:
  - (i) no motion to intervene has been filed or the application is uncontested; and
  - (ii) commission staff has determined that the application is complete and meets all applicable statutory criteria and filing requirements, including, but not limited to, the provision of proper notice of the application.
- (D) **Projects deemed critical to reliability.** Applications for transmission lines which have been formally designated by a PURA §39.151 organization as critical to the reliability of the system shall be considered by the commission on an expedited basis. The commission shall render a decision approving or denying an application for a certificate under this subparagraph within 180 days of the date of filing a complete application for such a certificate unless good cause is shown for extending that period.
- (4) **Tie line.** An application for a tie line must include a study of the tie line by the ERCOT independent system operator. The study shall include, at a minimum, an ERCOT-approved reliability assessment of the proposed tie line. If an independent system operator intends to conduct a study to evaluate a proposed tie line or intends to provide confidential information to another entity to permit the study of a proposed tie line, the independent system operator shall file notice with the commission at least 45 days prior to the commencement of such a study or the provision of such information. This paragraph does not apply to a facility that is in service on December 31, 2014.
- (c) **Projects or activities not requiring a certificate.** A certificate, or certificate amendment, is not required for the following:
  - (1) A contiguous extension of those facilities described in PURA §37.052;
  - (2) A new electric high voltage switching station, or substation;
  - (3) The repair or reconstruction of a transmission facility due to emergencies. The repair or reconstruction of a transmission facility due to emergencies shall proceed without delay or prior approval of the commission and shall be reported to the commission in accordance with §25.83 of this title;
  - (4) The construction or upgrading of distribution facilities within the electric utility's service area;

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- (5) Routine activities associated with transmission facilities that are conducted by transmission service providers. Nothing contained in the following subparagraphs should be construed as a limitation of the commission's authority as set forth in PURA. Any activity described in the following subparagraphs shall be reported to the commission in accordance with §25.83 of this title. The commission may require additional facts or call a public hearing thereon to determine whether a certificate of convenience and necessity is required. Routine activities are defined as follows:
- (A) The modification or extension of an existing transmission line solely to provide service to a substation or metering point provided that:
    - (i) an extension to a substation or metering point does not exceed one mile; and
    - (ii) all landowners whose property is crossed by the transmission facilities have given prior written consent.
  - (B) The rebuilding, replacement, or respacing of structures along an existing route of the transmission line; upgrading to a higher voltage not greater than 230 kV; bundling of conductors or reconductoring of an existing transmission facility, provided that:
    - (i) no additional right-of-way is required; or
    - (ii) if additional right-of-way is required, all landowners of property crossed by the electric facilities have given prior written consent.
  - (C) The installation, on an existing transmission line, of an additional circuit not previously certificated, provided that:
    - (i) the additional circuit is not greater than 230 kV; and
    - (ii) all landowners whose property is crossed by the transmission facilities have given prior written consent.
  - (D) The relocation of all or part of an existing transmission facility due to a request for relocation, provided that:
    - (i) the relocation is to be done at the expense of the requesting party; and
    - (ii) the relocation is solely on a right-of-way provided by the requesting party.
  - (E) The relocation or alteration of all or part of an existing transmission facility to avoid or eliminate existing or impending encroachments, provided that all landowners of property crossed by the electric facilities have given prior written consent.
  - (F) The relocation, alteration, or reconstruction of a transmission facility due to the requirements of any federal, state, county, or municipal governmental body or agency for purposes including, but not limited to, highway transportation, airport construction, public safety, or air and water quality, provided that:
    - (i) all landowners of property crossed by the electric facilities have given prior written consent; and
    - (ii) the relocation, alteration, or reconstruction is responsive to the governmental request.
- (6) Upgrades to an existing transmission line by an MPE that do not require any additional land, right-of-way, easement, or other property not owned by the MOU;
- (7) The construction, installation, or extension of a transmission facility by an MPE that is entirely located not more than 10 miles outside of an MOU's certificated service area that occurs before September 1, 2021; or
- (8) A transmission facility by an MOU placed in service after September 1, 2015, that is developed to interconnect a new natural gas generation facility to the ERCOT transmission grid and for which, on or before January 1, 2015, an MOU was contractually obligated to purchase at least 190 megawatts of capacity.

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- (d) **Standards of construction and operation.** In determining standard practice, the commission shall be guided by the provisions of the American National Standards Institute, Incorporated, the National Electrical Safety Code, and such other codes and standards that are generally accepted by the industry, except as modified by this commission or by municipal regulations within their jurisdiction. Each electric utility shall construct, install, operate, and maintain its plant, structures, equipment, and lines in accordance with these standards, and in such manner to best accommodate the public, and to prevent interference with service furnished by other public utilities insofar as practical.
- (1) The standards of construction shall apply to, but are not limited to, the construction of any new electric transmission facilities, rebuilding, upgrading, or relocation of existing electric transmission facilities.
  - (2) For electric transmission line construction requiring the acquisition of new rights-of-way, electric utilities must include in the easement agreement, at a minimum, a provision prohibiting the new construction of any above-ground structures within the right-of-way. New construction of structures shall not include necessary repairs to existing structures, farm or livestock facilities, storage barns, hunting structures, small personal storage sheds, or similar structures. Utilities may negotiate appropriate exceptions in instances where the electric utility is subject to a restrictive agreement being granted by a governmental agency or within the constraints of an industrial site. Any exception to this paragraph must meet all applicable requirements of the National Electrical Safety Code.
  - (3) Measures shall be applied when appropriate to mitigate the adverse impacts of the construction of any new electric transmission facilities, and the rebuilding, upgrading, or relocation of existing electric transmission facilities. Mitigation measures shall be adapted to the specifics of each project and may include such requirements as:
    - (A) selective clearing of the right-of-way to minimize the amount of flora and fauna disturbed;
    - (B) implementation of erosion control measures;
    - (C) reclamation of construction sites with native species of grasses, forbs, and shrubs; and
    - (D) returning site to its original contours and grades.
- (e) **Certificates of convenience and necessity for existing service areas and facilities.** For purposes of granting these certificates for those facilities and areas in which an electric utility was providing service on September 1, 1975, or was actively engaged in the construction, installation, extension, improvement of, or addition to any facility actually used or to be used in providing electric utility service on September 1, 1975, unless found by the commission to be otherwise, the following provisions shall prevail for certification purposes:
- (1) The electrical generation facilities and service area boundary of an electric utility having such facilities in place or being actively engaged in the construction, installation, extension, improvement of, or addition to such facilities or the electric utility's system as of September 1, 1975, shall be limited, unless otherwise provided, to the facilities and real property on which the facilities were actually located, used, or dedicated as of September 1, 1975.
  - (2) The transmission facilities and service area boundary of an electric utility having such facilities in place or being actively engaged in the construction, installation, extension, improvement of, or addition to such facilities or the electric utility's system as of September 1, 1975, shall be, unless otherwise provided, the facilities and a corridor extending 100 feet on either side of said transmission facilities in place, used or dedicated as of September 1, 1975.
  - (3) The facilities and service area boundary for the following types of electric utilities providing distribution or collection service to any area, or actively engaged in the construction, installation, extension, improvement of, or addition to such facilities or the electric utility's system as of September 1, 1975, shall be limited, unless otherwise found by the commission, to the facilities and the area which lie within 200 feet of any point along a distribution line, which is specifically deemed to include service drop lines, for electrical utilities.

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- (f) **Transferability of certificates.** Any certificate granted under this section is not transferable without approval of the commission and shall continue in force until further order of the commission.
- (g) **Certification forms.** All applications for certificates of convenience and necessity shall be filed on commission-prescribed forms so that the granting of certificates, both contested and uncontested, may be expedited. Forms may be obtained from Central Records.
- (h) **Commission authority.** Nothing in this section is intended to limit the commission's authority to recommend or direct the construction of transmission under PURA §§35.005, 36.008, or 39.203(e).